

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANDIN INTERNATIONAL, INC. : Civil Action No. 08 cv 1159 (HB)

Plaintiff,

- against -

YURMAN STUDIO, INC.

Defendant.

YURMAN STUDIO, INC.

Defendant-
Counterclaimant,

- against -

ANDIN INTERNATIONAL, INC. and
VARDI GEM LUSTRE, LLC

Counterclaim-
Crossclaim Defendants.

X

X

X

DECLARATION OF SUE ANN NEWBERG

I, Sue Ann Newberg, pursuant to 28 U.S.C. § 1746, hereby declare the following under penalty of perjury:

1. I am the Vice President of Merchandising at Yurman Studio, Inc. ("Yurman") and have served in this position since May 2006. I make this declaration in opposition to the motion of Andin International Inc. ("Andin") for summary judgment. I have personal knowledge of the facts set forth below.

2. I have been involved in the jewelry business for over thirty years. Prior to joining Yurman, I was Vice President of Merchandising for Jewelry at the well known retailer Saks Fifth Avenue ("Saks") for five and a half years. In my position at Saks, I was responsible for making purchasing decisions for both fine and fashion jewelry for all Saks stores, as well as reviewing all product presentations from jewelry designers and suppliers. As a result, I was exposed to not only jewelry designs created by every fine jeweler whose collections were sold at Saks, but also to numerous other jewelers who wanted Saks to sell their collections.

3. I am also familiar with the habits of jewelry consumers. In my position at Saks, I was also responsible for training Saks' sales employees working in the jewelry department on how to merchandise the jewelry items offered for sale at Saks. My job required me to be an expert with regard to the habits, attitudes, and characteristics of jewelry purchasers.

4. Since 1984, I have traveled internationally to attend preeminent jewelry trade shows including the Basel Watch & Jewelry Show in Switzerland and the Vincenza Fair in Italy. While attending these shows each year, I am exposed to original designs created by jewelers all over the world.

5. David Yurman products are extremely popular at Saks. Saks has sold Yurman products for over twenty years, and Saks' purchase and sales of Yurman products increased substantially each year that I worked at Saks. Yurman products are well known among the sales people and consumers, with whom I have dealt directly, for having very distinctive looks, different from other jewelry designs.

6. I am familiar with the twelve Yurman products that are the subject of Yurman's trade dress claim in this case, and the five items -- a copyrighted enhancer (D06384), a larger enhancer (D06390), a large earring (E06305), a small earring (E06597) and a ring (R07000) -- that most directly match up to the ensemble sold by Andin. I became familiar with these items while I was working at Saks because Saks offered them for sale in its jewelry department.

7. Saks' advertising campaigns and catalogs feature David Yurman products on a regular basis. I know that the small earring (E06597), identified in paragraph 6 above, as well as other items from Yurman's very popular Silver Ice Collection were featured in a 2001 Saks catalog. A copy of that catalog is attached as Exhibit 1. I am quite sure that the other items identified in paragraph 6 above, as well as other items from the Silver Ice Collection in general have been featured in other Saks catalogs and print advertisements.

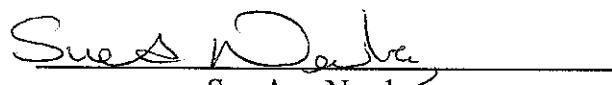
8. Each of the items identified in paragraph 6 above share a unique combination of design features -- a cushion shaped focal point consisting of pave diamonds, surrounded or framed by a rim of gold, which in turn is surrounded or framed by cable, or twisted wire, in sterling silver. From my experience, this combination of features is one of the "looks" that David Yurman has become well known for.

9. In my experience, when I saw the Yurman items identified in paragraph 6, that was the first time I had seen this combination of a cushion shape with a pave diamond center, surrounded by gold, surrounded by cable.

10. Based on my experience at Saks dealing directly with sales people and consumers, the many Saks' jewelry customers familiar with the David Yurman brand

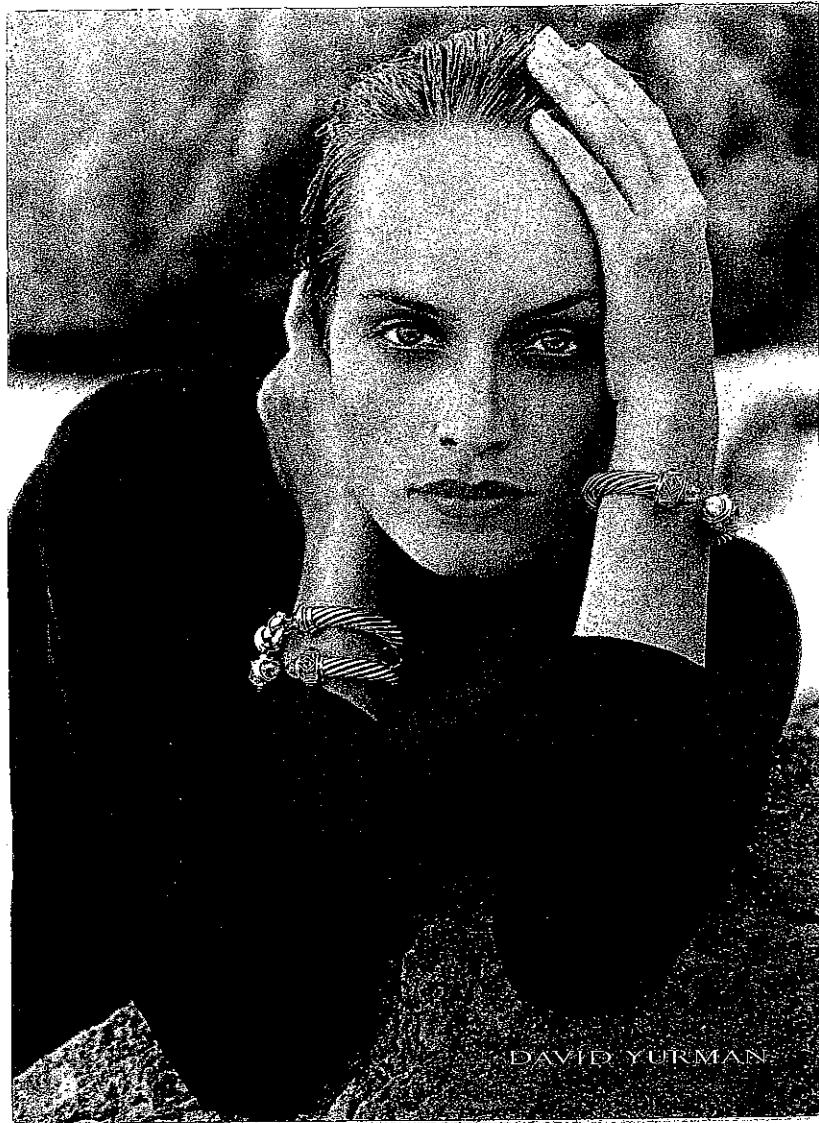
would immediately recognize this unique combination of design elements as a distinct David Yurman look and believe that jewelry items with that combination of features comes from David Yurman.

Declared under penalty of perjury, this 27 day of June, 2008.



Sue Ann Newberg

EXHIBIT 1



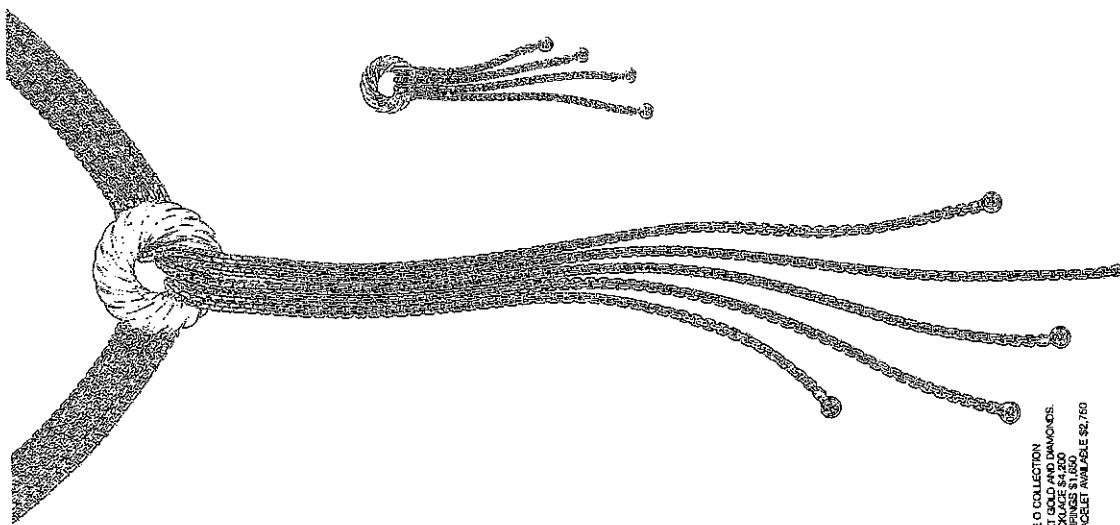
DY-0029

THE CABLE CLASSICS
DIAMOND CAPRI RING \$2,450
PHOMATE GEMSET RING \$2,450
DIAMOND KNOT RING \$1,400
ICITE RING \$2,170
DIAMOND BAND RINGS \$2,470

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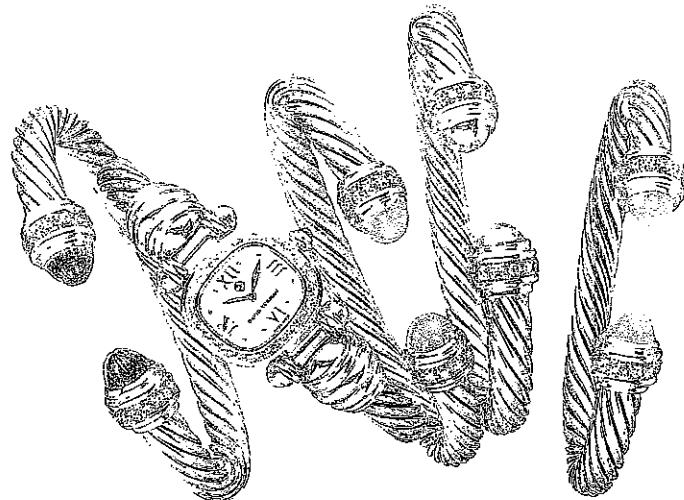


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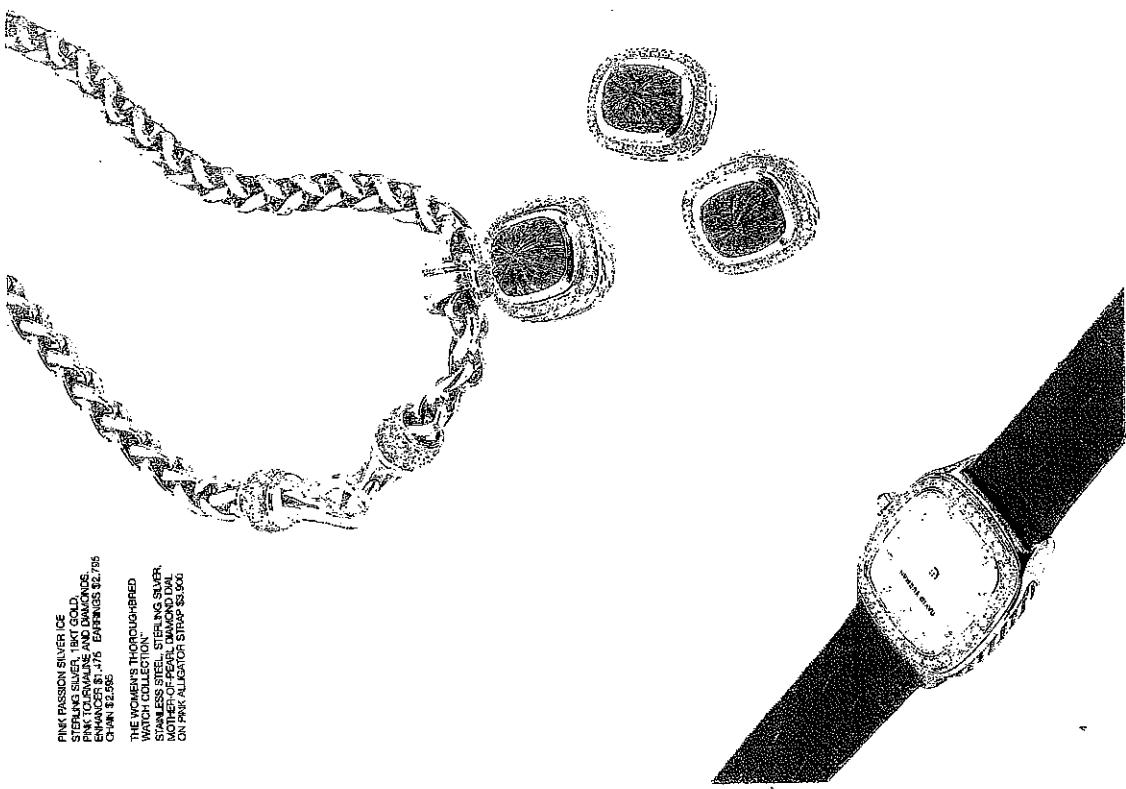


THE O COLLECTION
NAT GOLD AND DIAMONDS
NECKLACE \$1,400
BRACELET AVAILABLE \$2,750

DY-0030



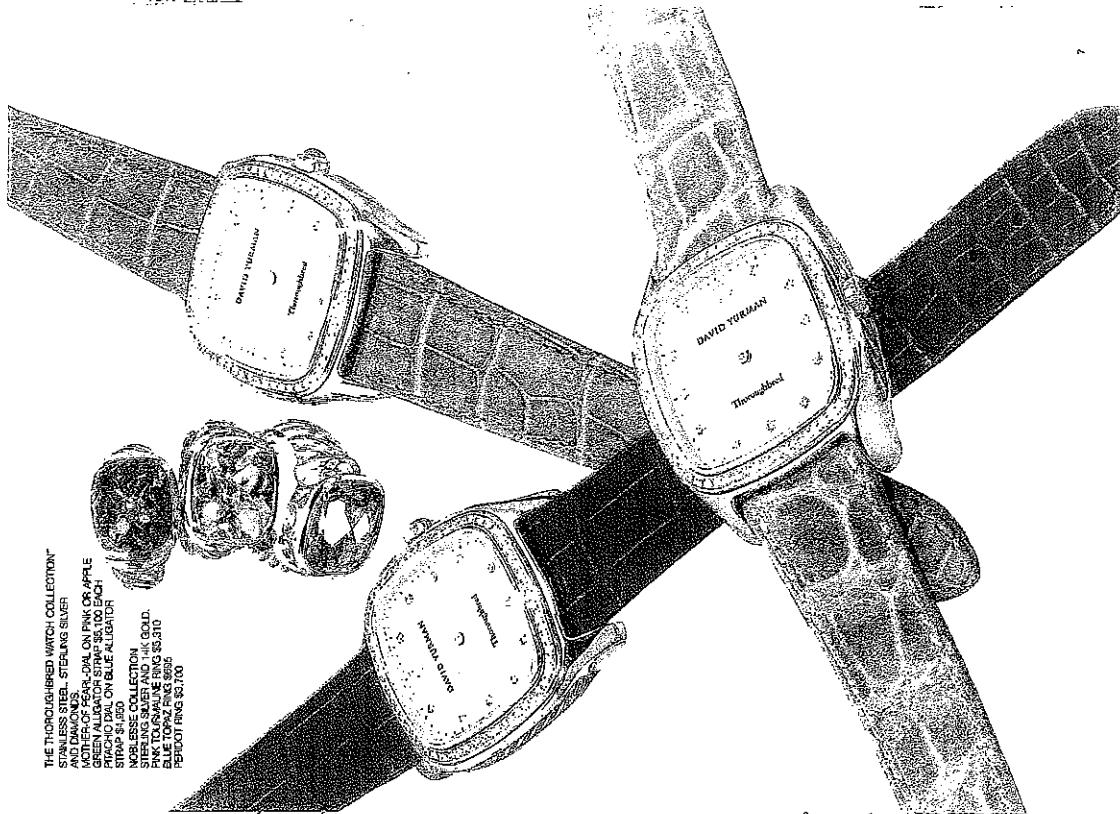
THE SILVER ICE COLLECTION
STERLING SILVER AND 18KT GOLD
PINK TOPAZ AND DIAMOND BRACELET \$1,265
CABOCHON WATCH \$1,250
BLUE CHALCEDONY BRACELET \$1,200
GOLD DIAMOND BRACELET \$1,150
PERIDOT OPAL BRACELET \$1,050



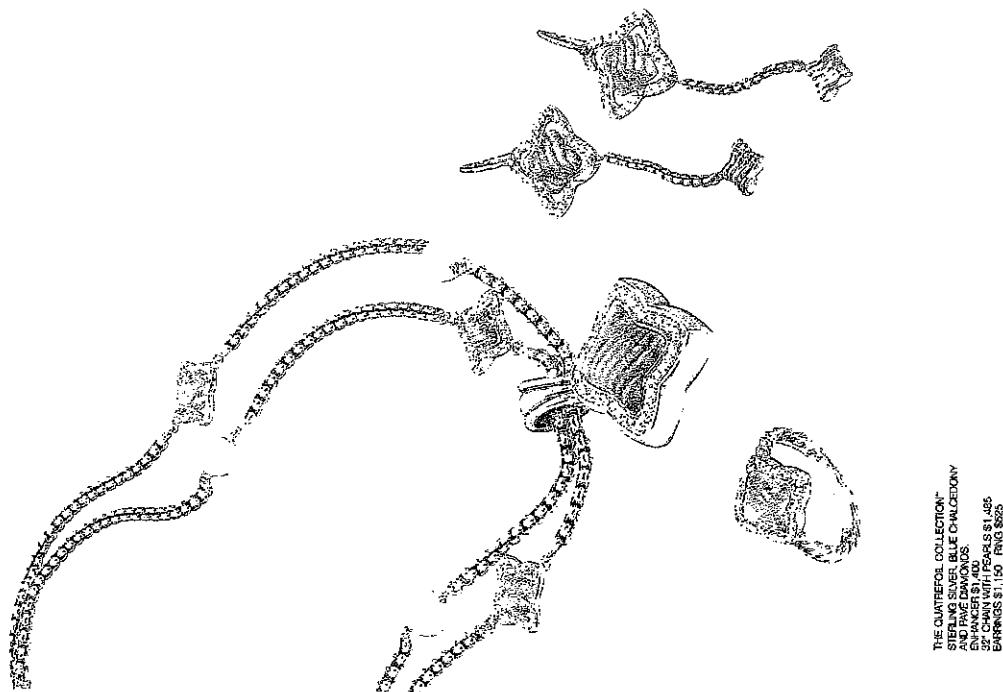
FINE PASSION SILVER ICE
STERLING SILVER, 18KT GOLD,
DIAMONDS, PINK TOPAZ
EMANUELE PERI \$1,775
CHAN \$2,595

THE WOMEN'S THOROUGHBERED
WATCH COLLECTION
STERLING SILVER, 18KT GOLD,
DIAMONDS, PINK TOPAZ
EMANUELE PERI \$1,775
CHAN \$2,595

DY-0031



THE THOROUGHBRED WATCH COLLECTION™
STAINLESS STEEL, STYLING SILVER
AND CHASSIS STEEL, STYLING SILVER
MOTHER-OF-PEARL DIAL, ON PINK OR APELLE
GREEN ALLIGATOR STRAP \$3,100 EACH
PLATINUM PLATE ON BLUE ALLIGATOR
STRAP \$3,100
NO. 100 EDITION
SOLID 18K GOLD, SET AND IN GOLD.
PINK TOPAZ RINGS \$3,895
BLUE TOPAZ RINGS \$3,895
PERIDOT RINGS \$3,700



THE QUATREFOL COLLECTION™
SOLID 18K GOLD, BLUE CHALCEDONY
SOLID 18K GOLD
CHAMOIS CLOTH
32" CHAIN WITH PEARLS \$1,495
EARINGS \$1,150 RING \$925

DY-0032

THE CROSSOVER COLLECTION
18K GOLD WITH PAVE DIAMONDS.
NO. 101125 \$1,500
BRACELET \$850
18K EPACHELET \$1,100
EARRINGS \$2,400
RING \$1,450



DY-0033

THE SILVER ICE COLLECTION,
STERLING SILVER AND 14K GOLD
WITH PAVE DIAMONDS.
NECKLACE \$1,750, BRACELET \$1,650
RING \$1,550, STACKING RINGS \$1,550
GOLD COIN BRACELET \$925

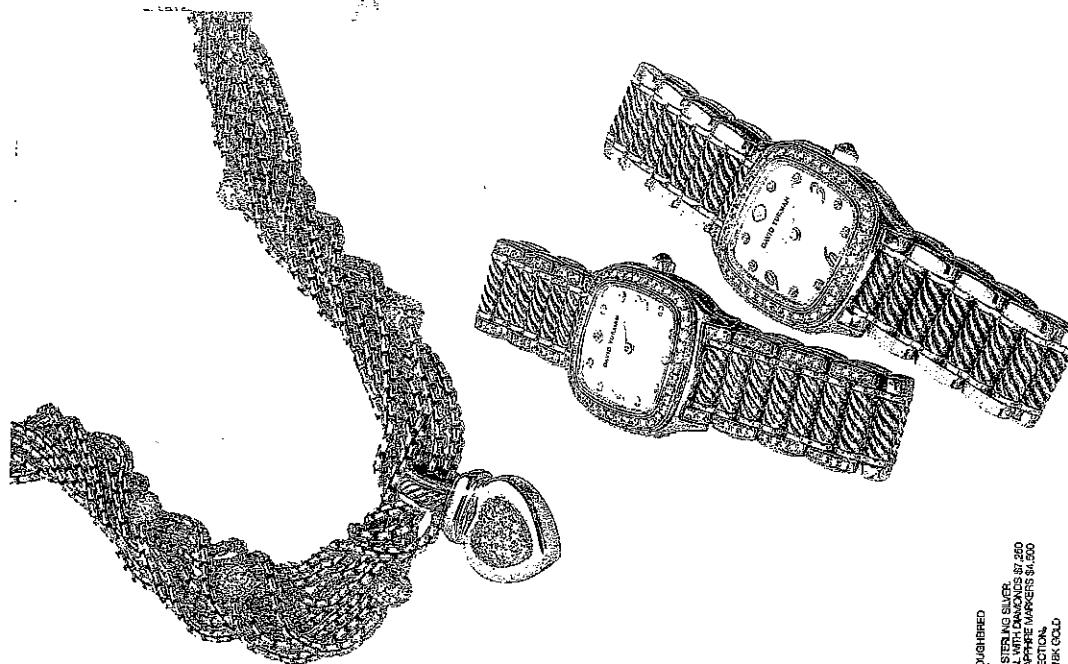


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THE SILVER ICE COLLECTION
STERLING SILVER AND 14K GOLD
WITH PAVE DIAMONDS.
NECKLACE \$1,250,
BRACELET \$1,700,
RING \$1,550,
STACKING RINGS \$1,250

DY-0034



THE WOMEN'S THOROUGHBED
WATCH COLLECTION.
CHASSIS AND CASE IN STERLING SILVER,
MOVEMENT IN 18K GOLD, STERLING SILVER
PINK DIAL WITH PINK SAPPHIRE MARKERS \$7,250
THE SILVER ICE COLLECTION,
STERLING SILVER AND 18K GOLD
WITH PAVE DIAMONDS
NECKLACE \$2,600 ENHANCER \$995

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DY-0035



THE QUILTED CUFFLINKS™
STERLING SILVER AND 18K GOLD
NECKLACE \$550
CABLE WATCH \$1,000
BANGLES \$495 RINGS \$125

THE MEN'S TUDOR HERITAGE WATCH COLLECTION™
STEEL AND STERLING SILVER
BLACK DIAL ON STAINLESS STEEL STRAP \$2,050
WHITE DIAL ON ALLIGATOR STRAP \$2,050
STERLING SILVER BRACELET \$525
BLACK QUILTED CUFFLINKS \$20

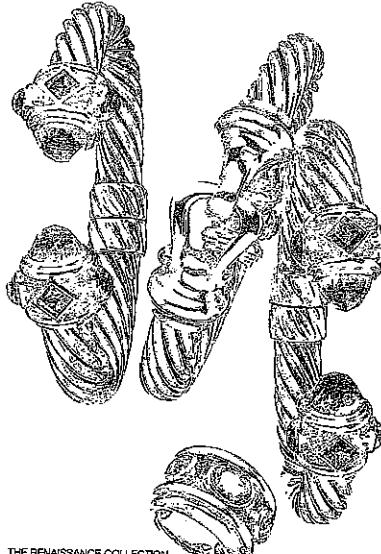


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DY-0036

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THE RENAISSANCE COLLECTION
STERLING SILVER AND 14K GOLD.
PERIDOT, PINK TOURMALINE
AND DIAMOND BRACELET \$1,695
CITRINE, PHOSPHATE, SAPPHIRE
AND GREEN TOURMALINE BRACELET \$2,220
BUCKLE BRACELET \$1,970
CITRINE AND PERIDOT RING \$580

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